

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Motor Fuels Underground Storage
Tank Trust Fund
Department of Environmental Quality
State of Louisiana
Baton Rouge, Louisiana

March 21, 1999

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Financial and Compliance Audit Division

*Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor*

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**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Baton Rouge, Louisiana**

**Special Purpose Financial Statement
and Independent Auditor's Reports
For the Year Ended June 30, 1999**

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor.

March 31, 1999

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA**

*Special Purpose Financial Statement
and Independent Auditor's Reports
For the Year Ended June 30, 1999*

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DAVID L. DYER, PH.D., CPA, CFE
LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-0001

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February 25, 1999

Independent Auditor's Report
on the Financial Statement

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Baton Rouge, Louisiana**

We have audited the accompanying special purpose financial statement of the Motor Fuels Underground Storage Tank Trust Fund for the year ended June 30, 1998, as listed in the foregoing table of contents. This financial statement is the responsibility of management of the Department of Environmental Quality. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in note 1 to the financial statement, the accompanying special purpose financial statement was prepared for the purpose of complying with Louisiana Revised Statute 30:2165.5 and is not intended to be a presentation in conformity with generally accepted accounting principles.

In our opinion, the special purpose financial statement referred to above presents fairly, in all material respects, the cash receipts, disbursements, and changes in balance of the Motor Fuels Underground Storage Tank Trust Fund for the year ended June 30, 1998, on the basis of accounting described in note 1.

In accordance with Government Auditing Standards, we have also issued a report dated February 25, 1999, on our consideration of the Motor Fuels Underground Storage Tank Trust Fund's internal control over financial reporting and our tests of its compliance with certain laws and regulations.

LEGISLATIVE AUDITOR

MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Audit Report, June 30, 1988

This report is intended for the information and use of the department and its management and should be used solely as intended by the foregoing statute. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,



Daniel G. Kyle, CPA, CFE
Legislative Auditor

DMS: WMB:RCL:es

BP 42771

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA**

**Statement of Cash Receipts, Disbursements,
and Changes in Balance
For the Year Ended June 30, 1998**

RECEIPTS

Bulk distribution fees	\$20,660,040
Annual assessment fees	104,290
Interest earnings	<u>528,159</u>
Total receipts	<u>21,318,449</u>

DISBURSEMENTS

Claims for reimbursement	<u>15,709,893</u>
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EXCESS OF RECEIPTS OVER DISBURSEMENTS	5,608,456
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TRANSFER TO ENVIRONMENTAL TRUST FUND	(948,240)
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CASH IN STATE TREASURY AT JULY 1, 1997	<u>5,419,434</u>
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CASH IN STATE TREASURY AT JUNE 30, 1998	<u>\$13,589,650</u>
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The accompanying notes are an integral part of this statement.

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA**

Notes to the Financial Statement
For the Year Ended June 30, 1995

INTRODUCTION

The Motor Fuels Underground Storage Tank Trust Fund was established by Louisiana Revised Statutes (R.S.) 30:2194-2197 in response to the 1984 Subtitle I amendments to the Resource Conservation and Recovery Act, which provided for the development and implementation of a comprehensive regulatory program for underground storage tanks containing petroleum and hazardous liquids. The underground storage tank program is a section within the Department of Environmental Quality. All disbursements are handled by the department under the guidance of an Underground Motor Fuels Storage Tank Advisory Board that is composed of six members as follows: the secretary of the Department of Environmental Quality or his designee, one member appointed by the secretary of the Department of Environmental Quality to represent the Respond Action Contractor Community, two members appointed by the president of the Louisiana Oil Marketers Association, one member appointed by the Mid-Continent Oil and Gas Association, and one member appointed by the Bayou State Gasoline Retail Dealers Association. The monies in the Motor Fuels Underground Storage Tank Trust Fund are used to defray the cost to the State of Louisiana of administering the underground storage tank program and the cost of investigation, testing, containment, control, and clean-up of releases from underground storage tanks containing hazardous substances. There are approximately 20,000 tanks registered by the underground storage tank section. The section is staffed by eight employees.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. BASIS OF PRESENTATION

The accompanying financial statement has been prepared on the cash basis of accounting, with collections recognized when received and disbursements reflected when paid. As such, the accompanying financial statement does not reflect the receivables and related payables associated with the activities of the trust fund.

B. TRUST FUND

The accompanying Statement of Cash Receipts, Disbursements, and Changes in Balance is a special presentation intended to provide information in order to comply with R.S. 30:2195.5. Accordingly, the statement does not necessarily present the financial activities of the trust fund in its entirety.

The trust fund accounts for the proceeds of bulk distribution fees, annual assessment fees, and interest earned on investments that are legally dedicated to the Motor Fuels Underground Storage Tank Trust Fund.

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Notes to the Financial Statement (Continued)**

C. RECEIPTS AND DISBURSEMENTS

Receipts

Bulk distribution fees, annual assessment fees, and interest earnings are recorded when the receipts are deposited in the depository bank and classified by the State Treasurer's Office.

Disbursements

Disbursements are made for (1) reimbursements to underground storage tank owners for the rehabilitation and remediation of sites contaminated by a leak from a registered tank and (2) payments to the third party who brings a claim against an owner because of damages sustained by a release into the underground or subsurface soils and who has obtained a final judgment in said action against an owner who is in substantial compliance with the laws, rules, and regulations at the time the release occurred. R.S. 30:2165.4 provides the procedures for disbursements from the trust fund.

2. CASH

At June 30, 1998, cash is composed of deposits with the state treasury totaling \$13,696,642. Cash balances held and controlled by the state treasurer are secured from risk by the state treasurer through separate custodial agreements, and the risk disclosures required by generally accepted accounting principles are included within the state's general purpose financial statements.

**3. BULK DISTRIBUTION AND
ANNUAL ASSESSMENT FEES**

Act 1014 of 1990 amended R.S. 30:2165.3, effective September 1, 1990, and required the collection of a bulk distribution fee by the bulk fuel dealer based on a charge for each separate withdrawal of motor fuel at a rate of \$13.50 per 9,000 gallons. Act 176 of 1993, effective August 10, 1993, amended R.S. 30:2165.3 to increase the bulk distribution fee by the bulk fuel dealer based on a charge for each separate withdrawal of motor fuel at a rate of \$27 per 9,000 gallons. Act 326 of 1995, effective June 15, 1995, amended R.S. 30:2165.3 to increase the bulk distribution fee by the bulk fuel dealer based on a charge for each separate withdrawal of motor fuel at a rate of \$72 per 9,000 gallons. Fees not received in a timely manner are subject to a late penalty of an additional 5% per month of the calculated fee that is not received. In addition, a fee not to exceed \$275 per year per eligible underground motor fuel storage tank storing new or used motor oil is assessed to all owners of such tanks in accordance with R.S. 30:2165.3(3). Fees not received within 30 days after the due date are subject to a late

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Notes to the Financial Statement (Continued)**

penalty of an additional 10% per month of the assessed fee. The late penalty shall be calculated from the actual due date of the invoice.

On an annual basis, all owners of registered tanks are assessed a tank registration fee of \$40 for each tank. The revenue collected from this tank registration fee is deposited to the Environmental Trust Fund as provided by R.S. 30:2165(G).

Collection of the fees ceases when the unobligated balance in the trust fund equals or exceeds \$20,000,000. The fees are reinstated when the unobligated balance in the trust fund has fallen below \$10,000,000 as provided by R.S. 30:2165.3(A)(10).

**4. TRANSFER FROM MOTOR FUELS
UNDERGROUND STORAGE TANK TRUST
FUND TO ENVIRONMENTAL TRUST FUND**

The Motor Fuels Underground Storage Tank Trust Fund transferred \$346,248 during the 1987-88 fiscal year, as shown on Statement A, to the Environmental Trust Fund. R.S. 30:2165.4(C) (2) states that if the secretary determines that funds deposited into the Environmental Trust Fund pursuant to R.S. 30:2165(G) are insufficient relative to the legislatively approved fiscal appropriation for the Underground Storage Tank Division during a given year, the secretary may order the treasurer to transfer from the Tank Trust Fund to the Environmental Trust Fund only that amount necessary to reach the authorized ceiling.

5. LITIGATION AND CLAIMS

At June 30, 1988, there are five lawsuits pending against the Motor Fuels Underground Storage Tank Trust Fund. The attorney for the Department of Environmental Quality has advised that it appears probable that the trust fund will be liable for three of the lawsuits. The outcome of the first lawsuit is less than \$100,000; the outcome of the second lawsuit is not expected to exceed \$100,000, and the outcome of the other lawsuit is unknown at this time. In the fourth lawsuit, the agency's liability cannot be determined at this time. Subsequent to June 30, 1988, the agency won the fifth lawsuit and has no liability.

6. RELATED PARTY TRANSACTIONS

During the year ended June 30, 1988, one Louisiana Motor Fuels Underground Storage Tank Trust Fund Advisory Board member had an interest in a business that received payments from the trust fund totaling \$17,553.

**OTHER REPORTS REQUIRED BY
GOVERNMENT AUDITING STANDARDS**

The following pages contain a report on compliance with laws and regulations and on internal controls as required by *Government Auditing Standards*, issued by the Comptroller General of the United States. This report is based solely on the audit of the financial statement and includes, where appropriate, any reportable conditions and/or material weaknesses in internal control or compliance that would be material to the presented financial statement.



CHARLES J. DYKE, III, CPA, CFE
CHIEF LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-1001

ADMINISTRATIVE SERVICES
PHONE: (504) 386-5000
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February 26, 1999

Report on Compliance and on Internal Control
Over Financial Reporting Based on an Audit of the
Special Purpose Financial Statement Performed in
Accordance With Government Auditing Standards

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Baton Rouge, Louisiana**

We have audited the special purpose financial statement of the Motor Fuels Underground Storage Tank Trust Fund for the year ended June 30, 1998, and have issued our report thereon dated February 26, 1999. We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the Motor Fuels Underground Storage Tank Trust Fund's special purpose financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported herein under Government Auditing Standards.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Motor Fuels Underground Storage Tank Trust Fund's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the special purpose financial statement and not to provide assurance on the internal control over financial reporting. However, we noted a certain matter involving the internal control over financial reporting and its operation that we consider a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the Motor Fuels Underground Storage Tank Trust Fund's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement. The reportable condition is described in the following paragraphs.

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA**
Compliance and Internal Control Report
February 25, 1999
Page 2

**Weaknesses in Controls Over
Motor Fuel Delivery Fees**

The Department of Environmental Quality - Underground Storage Tank Trust Fund (department) does not have adequate controls over motor fuels delivery fees. A good internal control system requires the department to establish procedures to properly safeguard its assets and segregate duties to ensure that one person is not in the position to both initiate and conceal errors or fraud. Good internal controls also require that amounts deposited and recorded be reconciled to subsidiary records. During the year ended June 30, 1998, the department collected approximately \$20.6 million in motor fuel delivery fees.

The following weaknesses exist in controls over motor fuel delivery fees:

1. There is an inadequate segregation of duties in that the same person who prepares the deposit for fees received also records the receipts in the subsidiary records.
2. The department is not reconciling the amounts deposited and recorded in the subsidiary records to the general ledger records.

Failure to develop and implement adequate controls for motor fuel delivery fees may result in errors and/or fraud that may not be detected in a timely manner.

Management should establish adequate internal controls by segregating incompatible duties and by reconciling subsidiary records to the general ledger. Management concurred with the finding and recommendation and outlined a plan of corrective action (see Appendix A).

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material to the special purpose financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are considered to be material weaknesses. However, we do not believe the reportable condition described previously is a material weakness.

LEGISLATIVE AUDITOR

MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Compliance and Internal Control Report
February 26, 1999
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This report is intended for the information and use of the department and its management. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,



Daniel O. Kyle, CPA, CFE
Legislative Auditor

BBB-VMB-PCL:es

(201.000.001)

Appendix A

Management's Corrective Action Plans and Response to the Finding and Recommendation



State of Louisiana
Department of Environmental Quality



W. "BARK" FORTER, JR.
GOVERNOR

A. BALE-OWENS
SECRETARY

February 17, 1998

Dr. Daniel G. Kyle, CPA, CFE
Legislative Auditor's Office
Post Office Box 94397
Baton Rouge, LA 70804-8997

RE: Weaknesses Over Motor Fuel Fund

Dear Dr. Kyle:

This department has reviewed the weaknesses referenced above, and agrees to continue to develop, and implement adequate controls over this function to ensure proper compliance. Mr. Terry Cate, Fiscal Manager, will begin work immediately to correct these weaknesses.

Weakness #1: The department, in an attempt to meet the timely deposit of checks, temporarily assigned someone to deposit and post checks received for this program. There were two vacant positions, one which has now been filled, at the time this temporary assignment took place. Procedures are now being reviewed, and will again be reorganized to ensure the proper checks and balances are in place.

Weakness #2: While maintaining a log of each check received for this program is not feasible, the department will implement a procedure so that there are adding machine tapes run on each batch of mail transmitted to the person making the deposit.

Weakness #3: The department is in the process of implementing a new Accounts Receivable system, which is expected to be implemented by the end of the year. This new system will have the capabilities to produce reports to allow balancing to deposits.

If you require additional information, please feel free to contact this office.

Sincerely,

Thomas G. Hagan
Undersecretary



recycle 70804-8997

OFFICE OF MANAGEMENT AND FINANCE

P.O. BOX 93397

BATON ROUGE, LOUISIANA 70804-8997

AN EQUAL OPPORTUNITY EMPLOYER

